

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CEDRIC DANIELS,

Plaintiff(s)

vs.

JAMES L. ERWIN, Warden,

Defendant(s)

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Case Number: 1:03cv81-SJD-TSH

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on May 26, 2005 Report and Recommendations (Doc. 25). Subsequently, the plaintiff filed objections to such Report and Recommendations.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254(Doc. 1) is hereby DENIED with prejudice.

A certificate of appealability shall not issue with respect to petitioner's ground for relief because petitioner has failed to make a substantial showing of the denial of a constitutional right based on such claim. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal in forma pauperis, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be

taken in “good faith,” and therefore DENIES petitioner leave to appeal in forma pauperis upon a showing of financial necessity. See Fed. R. App. P. 24(a); Kincade v. Sparkman, 117 F.3d 949,952 (6th Cir. 1997).

IT IS SO ORDERED.

____s/Susan J. Dlott____
Susan J. Dlott
United States District Judge